

## **STATUS OF THE TMDL AND WATERSHED RULES**

### **March 4, 2003**

On December 20, 2002, the U.S. Environmental Protection Agency (EPA) announced its proposal to withdraw the July 2000 final rule, which revised EPA's Total Maximum Daily Load (TMDL) program under the Clean Water Act. EPA claimed the 2000 rule - commonly referred to as the "TMDL Rule" - to be "unworkable", citing that the schedules for completing plans, requirement of implementation plans and emphasis on nonpoint sources of pollution were problematic for agriculture, state and environmental interests. Some two dozen parties also challenged the rule in court, and Congress ultimately barred implementation of the 2000 TMDL rule.

EPA officials are now working on a regulation known as the "Watershed Rule", which is intended as an information-based approach to watershed planning and a better way to address impaired waters. The vision of the Watershed Rule is to provide a framework that advances state and local efforts to achieve the highest attainable designated uses by promoting flexible and effective watershed approaches. For example, states would be able to adjust their point source and nonpoint source allocations in response to new information as long as the total permissible load is not exceeded.

Responses to EPA's proposed revision of the TMDL regulations have been mixed. NPDES dischargers, which bear the bulk of the regulatory burden because they are required to have permits, tend to support a rule that would clamp down more on nonpoint sources. The dilemma is how to address those sources of pollution. Farming interests generally do not want contributions from nonpoint sources to be regulated in the same manner as those from point sources. Instead, they promote controlling pollutant loads from nonpoint sources at the state and local level through the use of best management practices. Many environmental advocates want EPA to continue implementing the existing TMDL program because they claim it provides more water quality protections than the rulemaking being contemplated.

In the interim, the TMDL program will continue to be implemented under the regulations promulgated in 1985 and amended in 1992. The proposal to withdraw the 2000 TMDL Rule must become final before April 2003, or the 2000 regulation will become effective.

#### **Sources:**

EPA Press Release, 20 December 2002, "EPA Proposes To Withdraw Unworkable 2000 TMDL Rule; Continues To Work With Stakeholders to Improve TMDL Implementation on a Watershed Basis"

Inside EPA, 13 February 2003 issue "Key Senate Democrats Tighten Pressure On EPA To Halt Watershed Rule"